The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TETSURO MOTOYAMA, AVERY FONG and YEVGENIYA LYAPUSTINA

Appeal No. 2006-0417
Application 09/311,148

HEARD: FEBRUARY 8, 2006

Before THOMAS, JERRY SMITH, and SAADAT, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 1, 5 through 8, 12 through 15, 19 through 22 and 26 through 28.

Representative claim 1 is reproduced below:

1. A system comprising:

an interface of a target application, the interface comprising a plurality of operations to be selected by a user, wherein the target application is an image forming device and the interface is an operation panel of the image forming device;

a monitoring unit configured to directly monitor user selections of the plurality of operations of the interface by the user automatically upon start-up of the target application without the user directly starting a monitoring program, and to generate a log of the monitored data, the log indicating the selections of the plurality of operations by the user;

a communicating device configured to communicate the log of the monitored data to a remote site.

The following references are relied on by the examiner:

Boulton et al. (Boulton)	5,566,291	Oct. 15, 1996
Ladd	6,433,802	Aug. 13, 2002 (Filed Dec. 29, 1998)

Claims 1, 5 through 8, 12 through 15, 19 through 22 and 26 through 28, constituting all claims on appeal, stand rejected 35 U.S.C. § 103. As evidence of obviousness, the examiner relies on Boulton in view of Ladd.

Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and reply brief for appellants' positions, and to the answer for the examiner's positions.

OPINION

Generally for the reasons set forth by appellants in the brief and reply brief, we reverse the outstanding rejection of all claims on appeal under 35 U.S.C. § 103.

Each of independent claims 1, 8, 15 and 22 on appeal in some manner recites the feature reproduced here from claim 1 on appeal:

> a monitoring unit configured to directly monitor user selections of the plurality of operations of the interface by the user automatically upon start-up of the target application without the user directly starting a monitoring program.

From our study of both references relied upon by the examiner, we conclude that neither reference teaches or suggests this feature, thus leading us to conclude that the examiner has not established a prima facie case of obviousness even if the references would have been properly combinable within 35 U.S.C. § 103.

Notwithstanding the extensive teachings and showings in Boulton of monitoring a user interaction with an interface device, we agree with the examiner's observation at the bottom of page 4 of the answer that Boulton does not do so automatically upon start-up of the target application without the user directly starting a monitoring program as noted in the reproduced portion

of representative claim 1 on appeal. From our detailed study of Boulton, we agree with his observation and conclude that no portion of Boulton discloses or suggests the mere start-up or operation of an image forming device would result in an automatic monitoring of user selections of operations of an interface device.

Even considering the teachings of Ladd, we agree with appellants' observations with respect to this reference at page 6 of the principal brief on appeal:

> [T]he teachings in Ladd even directed to the monitoring operation are not at all even similar to the monitoring in the claimed invention. In the claimed invention the monitoring is directed to monitoring a user's usage of an interface. In Ladd the monitoring is directed to monitoring the progress of a parallel application that a user set up by a GUI 116. ***Ladd does not teach or suggest any monitoring of the user's usage of the GUI 116***, but instead only teaches monitoring progress of a parallel application 112. Thus, the teachings in Ladd are not even similar to the claimed features with respect to the monitoring.

Thus, it appears that even if the references relied upon by the examiner were properly combinable within 35 U.S.C. § 103, the claimed invention set forth in representative claim 1 on appeal would not have been met even if we consider the examiner's apparent views in the responsive arguments portion of the answer that Ladd is cited to modify the teachings of Boulton requiring

the activation of a monitoring program by the user as eliminating the requirement of this reference essentially because of the teaching best expressed at column 5, lines 39 through 46 of Ladd. The reasoning advanced initially by the examiner at page 5 of the answer for this modification such that the combination would make it easier for the user by not requiring him to directly execute a specific monitoring program appears to be more conclusory than based upon any teachings or suggestibility within Ladd taken with Boulton. The general teaching in Ladd of monitoring the operation of disparate application programs 112 within a distributed computer network would not have suggested to the artisan the desirability of obviating the explicit requirement in Boulton of the user activating an enter feedback mode command to initiate the user feedback operations that are extensively shown and discussed in Boulton.

Therefore, in view of the foregoing, even if the references were properly combinable within in 35 U.S.C. § 103, we conclude that the artisan would not have arrived at the claimed invention. We also conclude that it would not have been obvious for the artisan to have modified Boulton in light of Ladd's teachings to the extent argued by the examiner. As such, the decision of the examiner rejecting all claims on appeal under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS)
Administrative Patent Judge)
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JERRY SMITH) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
) INTERFERENCES
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MAHSHID D. SAADAT)
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